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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/918,844	07/31/2001	Bruce G. Ruefer	RUBG.66897	4995

7580 10/22/2003  
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EXAMINER

YO. HAI

ART UNIT PAPER NUMBER

1771

DATE MAILED: 10/22/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

### Office Action Summary

Application No.

09/918,844

Applicant(s)

RUEFER ET AL.

Examiner

Hai Vo

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 09 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 20-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other:

1. The indicated allowability of claims 20-16 is withdrawn in view of the newly discovered reference(s) to Hiroichi, Bacino and Morgan. Rejections based on the newly cited reference(s) follow.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 26 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is confusing that the node itself has a density lower than the aggregation since the node is a solid PTFE particle while the aggregation comprises a plurality of nodes and the voids between the nodes.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 20 is rejected under 35 U.S.C. 102(a) as being anticipated by JP 11-80705. Figure 9 of JP 11-80705 shows that a PTFE material comprises aggregations of nodes, short fibrils interconnecting the nodes to form the aggregations and long fibrils interconnection the aggregations. It is the examiner's position that JP 11-80705 anticipates the claimed subject matter.

6. Claim 20 is rejected under 35 U.S.C. 102(b) as being anticipated by Bacino (US 4,902,423). Figure 1 of Bacino shows that a PTFE material comprises aggregations of nodes, short fibrils interconnecting the nodes to form the aggregations and long fibrils interconnection the aggregations. It is the examiner's position that Bacino anticipates the claimed subject matter.
7. Claim 20 is rejected under 35 U.S.C. 102(b) as being anticipated by Morgan et al (US 4,952,630). Morgan discloses that a PTFE material comprises aggregations of nodes, short fibrils interconnecting the nodes to form the aggregations and long fibrils interconnection the aggregations (column 14, lines 455-60). It is the examiner's position that Morgan anticipates the claimed subject matter.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
9. Claims 21-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 11-80705 in view of the admitted prior art as set forth in the specification at page 1. JP'705 does not specifically disclose the length of the short fibrils as well as the density of the nodes and aggregations. The admitted prior art discloses the microporous structure of known ePTFE comprising a plurality of nodes that are connected together by a plurality of fibrils. The admitted prior art discloses that the microporous structure of known ePTFE comprising the fibril having length from 0.1

to 100 microns within the claimed range and the density of the nodes and aggregations within the claimed ranges too! (page 1). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the ePTFE having the fibril length, node density and aggregation density instantly claimed motivated by the desire to yield different physical properties of the ePTFE.

With regard to claims 22 and 26, none of the applied references teaches or suggests the long fibrils having a length as presently claimed. However, such a variable would have been recognized by one skilled in the art as dependent upon the intended use of the product. This is in line with *In re Aller*, 105 USPQ 233 which holds that discovering the optimum or workable ranges involves only routine skill in the art.

10. Claims 21-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bacino (US 4,902,423) in view of the admitted prior art at page 1 of Applicants' specification. The same reasons set forth in paragraph no. <sup>7</sup>~~8~~ are believed to be pertinent.
11. Claims 21-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morgan et al (US 4,952,630) in view of the admitted prior art at page 1 of Applicants' specification. The same reasons set forth in paragraph no. <sup>7</sup>~~8~~ are believed to be pertinent.

### ***Conclusion***

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12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hai Vo whose telephone number is (703) 605-4426. The examiner can normally be reached on M,T,Th, F, 8:30-6:00 and on alternating Wednesdays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (703) 308-2414. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

HV

DANIEL ZIRKER  
PRIMARY EXAMINER  
GROUP 1300-  
1700

*Daniel Zinker*